IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 40 (S/B) of 2004

Pramod Kumar Mittal S/o Sri Hari Prakash,
At present posted as Reader in Mathematics,
Govt. Post Graduate College, Rishikesh,
District Dehradun.

..... Petitioner

Versus

1. State of Uttaranchal through Principal Secretary (Higher Education), Dehradun, District Dehradun
2. Director of Education, Directorate of Higher Education, Haldwani, District Nainital
3. Principal Govt. Post Graduate College, Rishikesh, District Dehradun
4. Shobha Chandra Pant, Principal Govt. Post Graduate College, Pithoragarh, District Pithoragarh
5. K.B. Karnataka, Principal Govt. Post Graduate College, Uttarkashi

.....Respondents

Sri Rakesh Thapliyal, learned counsel for the petitioner.
Sri K.P. Upadhyaya, learned standing counsel for the State of Uttaranchal.

Dated: March 07, 2006

Hon'ble P.C. Verma, J.
Hon'ble B.C. Kandpal,J.

By means of this writ petition, the petitioner has prayed for writ of certiorari quashing the impugned order dated 15.10.2003 passed by Respondent No. 1 so far as it relates to Respondent Nos. 4 and 5.

2. By the impugned order, the Respondent Nos.4 and 5 have been promoted on the post of Principal of the Government Post Graduate College. The post of the Principal, Government Post Graduate College is the post of Head of Department according to the scale and the post of Head of Department is to filled up on the basis

of merit only in view of Rule 4 of the Uttaranchal Government Servant (Criterion for Recruitment by Promotion) Rules, 2004. Rule 4 of the said Rules reads as under: -

> *"4. Recruitment by promotion to the post fo Head of Department, to a post just one rank below the Head of Department and to a post in any service carrying the pay scale the maximum of which is Rs. 18,300/ - or above shall be made on the basis of merit, and to the rest of the posts in all services to be filled by promotion, including a post where promotion is made from a non-gazetted post to a Gazetted post or from one service to another service, shall be made on the basis of seniority to the rejection of the unfit."*

3. The petitioner has not annexed the comparative assessment of his service and his annual remarks, therefore, prima facie it cannot be said that the petitioner is more meritorious to Respondent Nos.4 and 5. Besides the comparative assessment based on annual report, there are other factors also to be taken into account for judging the merit by the Selection Committee.

4. We may not sit in an appeal with the judgment of the Selection Committee. The Selection Committee found Respondent Nos.4 and 5 more meritorious and recommended their names for the promotion and accordingly they have been promoted.

5. Therefore, there is no factual statement in the writ petition to substantiate the grounds taken in the writ petition. Hence, the writ petition is devoid of merit and is hereby dismissed. No order as to costs.

(B.C. Kandpal, J.) **(P.C. Verma, J.)**

Rajeev Dang